IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUNATION SHEET
CIVIL APPLICATION NO.5410 OF 2005
IN
FIRST APPEAL ST.NO.13788 OF 2004

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Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

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Ms Nilambari Jadhav i/b M/s.KMC. Legal Venture for the Applicant.
Mr.V.V.Shirsat i/b M/s.Shukla & Associates for the Respondent.

CORAM: A.S.OKA, J.
DATE : FEBRUARY 23,2007.

P.C.:

1. Rule. Respondent waives service. The impugned Decree is in the nature of money decree and hence, operation of the said decree cannot be stayed unless the decretal amount is deposited. Considering the fact that the Respondent is Mahanagar Telephone Nigam Ltd., decretal amount can be allowed to be withdrawn subject to filing an undertaking.

2. Prayer clause (a) in this Application is for staying operation of the order passed under Notice of Motion for setting aside the decree. The said prayer is misconceived and same cannot be granted.

3. Prayers (c) and (d) are also

misconceived and the same are rejected.

4. Hence, Application is disposed of by passing the following order :

i) There will be interim relief in terms of prayer clause (b) subject to the Applicant depositing with the Trial Court the amount due and payable as per the money decree as of today within a period of three months from today.

ii) If compliance is not made within time, interim relief will stand vacated without further reference to the Court.

iii) If the amount is deposited with the Trial Court, the said Court will permit the Respondent to withdraw the said amount subject to giving an undertaking to redeposit the said amount with appropriate rate of interest in case the Applicant succeeds in the Appeal.

JUDGE